



The Examining Authority  
The Planning Inspectorate  
Major Casework Directorate  
Temple Quay House  
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Bristol  
BS1 6PN

**Our ref:** AN/2023/134941/03-L01  
**Your ref:** TR030008  
**Date:** 3 May 2024

Dear Members of the Examining Authority

**Application from Associated British Ports for the Immingham Green Energy Terminal (“IGET”) Development Consent Order (“DCO”) at the Port of Immingham, North East Lincolnshire – Written Representations (Deadline 3)**

Pursuant to Deadline 3, the Environment Agency notes that the Examining Authority invites comments on any submissions received at Deadline 2, which we have reviewed.

You will also be aware from our Written Representations that we were unable to review the Deadline 1 submissions in time for Deadline 2. However, we have now been able to do this and wish to comment on the following submissions.

**Table of Errata (Tracked) [\[REP1-020\]](#)**

We note the inclusion of entries 17 to 24 in the Table of Errata, which adequately addresses several points of accuracy raised in our Relevant Representation [\[RR-010\]](#). These are welcomed.

**Applicant's response to ExQ1 on Biodiversity [\[REP1-026\]](#)**

We have read the Applicant's response to Q1.5.3.3 in relation to the terrestrial ecology and the North Beck Drain. This response again quotes an incorrect WFD status for this drain stating that “*North Beck Drain is a Water Framework Directive surface water body with limited aquatic fauna and biodiversity, the value of which is assessed as Low, as set out in Table 18-11: Importance of receptors in ES Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060]*”. We pointed out (in paragraph 10.5 of our Relevant Representation [\[RR-010\]](#)) that the North Beck Drain is a high certainty chalk river and this has been acknowledged in entry 20 of the Table of Errata [\[REP1-020\]](#).

Unfortunately, we are still not in a position to offer our full comments on freshwater ecology, to which the Applicant's overall answer to this question may be relevant.

**Applicant's response to ExQ1 on Flood Risk [\[REP1-029\]](#)** We have reviewed the Applicant's response to the questions on flood risk, which has assisted in resolving

some of the Environment Agency's concerns. Please refer to the latest draft Statement of Common Ground for our current position in respect of these matters.

**Applicant's response to the ExA's First Written Questions – responses to Q1.18 Development Consent Order (DCO) [REP1-039]**

The Applicant has responded to the Examining Authority's question in respect of the definition of 'commence' stating that this definition is only used in Requirements 6 (the Construction Environmental Management Plan (CEMP)), 7 (the Construction Traffic Management Plan) and 12 (the Drainage Strategy). The definition includes a list of exclusions to allow some operations to be undertaken ahead of the approval of these 3 plans/strategy, as the Applicant believes such operations would not give rise to adverse impact and need to be controlled through measures secured in these plans.

The submission goes on to set out a justification for each of the exclusions. Of particular concern to the Environment Agency is the exclusion of remedial work in respect of any contamination, and the submission states that this is because no below-ground works can be carried out without submission and approval of an appropriate remediation strategy under Requirement 15, and that it is unlikely that other significant effects could arise that would require control through the above plans.

We infer from this that the Applicant believes there are some remedial works in respect of contamination that is above ground and/or there is contamination that would not cause significant environmental impact - it is not specified what these are. Furthermore, those remedial works required under Requirement 15 are not to be dealt with under any of the controls outlined in the CEMP.

It is the Environment Agency's view that the significance of any contamination that may be present, and the need for any remediation to mitigate the risk to all receptors, can only be established once appropriate detailed site investigation data has been collected to support a risk assessment. The detail of what is required to remediate the site should then be covered by the remediation strategy – as secured via Requirement 15. Until that strategy has been submitted to, and approved by the relevant planning authority, following consultation with the Environment Agency, it is our view that no remediation works should take place. Accordingly, we remain of the view that "remedial work in respect of any contamination" should be deleted from the exclusions under the definition of 'commence'.

Furthermore, if all other requirements are to operate in the way explained by the Applicant, and this is accepted by the Examining Authority/Secretary of State, we no longer agree with the wording of Requirement 15. This is because remedial works to be undertaken under Requirement 15 must fall to be controlled under the CEMP. Tables 15 and 18 in the CEMP [REP2-004] list various potential impacts that are related to contamination and mobilising/handling of potentially contaminated soils. These are pertinent across most of the Work Numbers; some relate to human health impacts, and some relate to the protection of controlled waters. Additionally, the Outline Site Waste Management Plan (oSMP) (Appendix A to the CEMP) details on-site waste management measures to adhere to regarding the handling and disposal of contaminated soils and materials. We also note that this view seems to concur with that of North East Lincolnshire Council [REP1-071], which states that such "*works could lead to effects that should be controlled through the measures in R6, R7 and R9*".

Accordingly, we request that Requirement 15 is amended to substitute the phrase "may be undertaken" with 'may be commenced'.

In support of our representation on this matter we would also draw the Examining Authority's attention to other made Orders where this is precedented, such as The Immingham Open Cycle Gas Turbine Order 2020 (Schedule 2, Requirement 12), the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 (Schedule 2, Requirement 15), and the Boston Alternative Energy Facility Order 2023 (Schedule 2, Requirement 10).

**Outline Construction Environmental Management Plan, Version 2 (26 March 2024)**  
**[REP2-005]**

Page 57 of the revised oCEMP now includes a reference to rerouting Bridleway 36 and the confirmation that this will be fenced on both sides and situated more than 1m away from the landward toe of the flood defence of the North Beck Drain. This text addresses the issue raised in paragraph 3.10 of our Relevant Representation [RR-010]. The text also refers to REP1-025 as including in Appendix 7 an indicative route of the bridleway diversion, which does not appear to be correct – Appendix 7 of this document seems to focus on office and car parking arrangements off Queens Road. We would be grateful if the Applicant could signpost us to the correct plan or provide one if this has not yet been submitted.

**Appendix B Outline Soil Management Plan (oSMP)**

Page 16 (paragraph 4.2.4) of the oSMP now includes an appropriate acknowledgement that "*Within Work No.9, no temporary buildings, plant or materials will be located within the area of the fluvial floodplain or within 8m from the landward toe of the fluvial flood defence*". We are satisfied that this adequately addresses the point raised in paragraph 15.2 of our Relevant Representation [RR-010].

**Protective Provisions and Legal Agreement**

The Applicant met with the Environment Agency on 5<sup>th</sup> April 2024 to discuss the protective provisions and our request for a bespoke legal agreement to cover flood defence matters. Following this, the Applicant provided the Environment Agency with a track-changed version of our standard provisions, together with an outline of the matters it believes should be included in the legal agreement. We are reviewing these, and we will provide further updates on these matters in due course.

We are also continuing to engage with the Applicant on all matters listed in the Statement of Common Ground and we will provide further updates as appropriate in revised versions of that document.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me at the number below.

Yours sincerely

**Annette Hewitson**  
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